

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 2:16-cr-20799

Plaintiff,

HONORABLE STEPHEN J. MURPHY, III

v.

D-1, RICHARD KNIDER JACKSON,

Defendant.

/

**ORDER DENYING DEFENDANT'S MOTION TO
SUPPRESS FOR COERCEMENT OF WITNESS OR ILLEGAL SEARCH [97]**

On September 19, 2018, Defendant filed a motion titled "Motion to Suppress for/Coercement of Witness/Illegal Search." ECF 97. He makes several factual allegations and legal arguments. First, he argues that Detroit Police officers' statements to Adult Victim One ("AV1") were inappropriate. *Id.* at 424–25. Next, he argues that the Detroit Police conducted a "warrantless in-depth search" of "the premises, pockets myself, my phone interior for people AV1 said she helped out of window[.]" *Id.* at 425. Specifically, he alleges that Detroit Police officer Caban opened his phone in violation of *Riley v. California*, 134 S. Ct. 2473 (2014). *Id.* at 423. Third, he argues that police failed to provide a *Miranda* warning when police officers interviewed him at his home on November 17, 2016. *Id.* at 425. Fourth, he argues that the discrepancy between a communication to the FBI stating that five girls were involved and the affidavit supporting a search warrant stating four girls were involved amounts to the government presenting false evidence and should result in dismissal of charges. *Id.* at 426.

On January 24, 2019, the Government responded. ECF 133. The motion is fully briefed and the Court finds that a hearing is unnecessary. *See* E.D. Mich. LCrR 12.1; E.D. Mich. LR 7.1(f)(2).

BACKGROUND

Defendant's motion concerns Detroit Police's response to 3004 S. Electric, Detroit, Michigan, on November 17, 2016. ECF 133, PgID 506–07. Once there, police officers spoke with AV1 and Defendant. *Id.* at 507. According to the Government, AV1 gave consent for officers to enter the home to look for additional victims. *Id.* Police entered the residence to search for the alleged victims. ECF 23, PgID 93. Body camera footage captured police officers' actions inside the residence and showed officers looking through dresser drawers and under furniture. *Id.* Detroit Police later arrested Defendant. ECF 133, PgID 507. A search of Defendant incident to arrest recovered cash and a cell phone. *Id.*

Detroit Police contacted the Southeastern Michigan Trafficking and Exploitation Task Force ("SEMTEC"). SEMTEC members responded to the scene. SEMTEC task force officer Canton Police detective Jeremy Quinn prepared search warrants for 3004 S. Electric and Defendant's cell phone. A Wayne County judge signed each warrant. *See* ECF 19-2, 19-3. SEMTEC then searched Defendant's home and cell phone. ECF 133, PgID 507–08.

Defendant has previously challenged the November 2016 search warrant for 3004 S. Electric. ECF 17. He also argued that the police's initial warrantless entry into his home to search for additional victims exceeded its permissible scope. See ECF 23, PgID 97–98. The Court denied Defendant's motion to suppress, ruling that the

search warrant for 3004 S. Electric was supported by probable cause and was not overbroad. *Id.* at 96–97. The Court also held that because AV1's statements in the affidavits supporting the search warrants established probable cause, the officers' initial warrantless entry into the house had no effect on the validity of the warrants. *Id.* at 98.

DISCUSSION

Defendant's first argument—that law enforcement officers made inappropriate statements to Adult Victims—does not warrant suppression. Defendant argues, for example, that Officer Caban made comments to Adult Victim Two ("AV2") to inappropriately elicit statements. ECF 97, PgID 423. He also appears to suggest that Detroit Police Officer Amy Szarafinski "dictate[d]" to AV1. *Id.* at 424–25. Law enforcement officers' alleged statements to the adult victims may be explored more thoroughly on cross-examination.

Defendant's second argument—that Officer Caban reviewed the contents of Defendant's cell phone without a search warrant, in violation of *Riley v. California*—is unconvincing. First, his assertion that Officer Caban reviewed the contents of the cell phone is difficult to substantiate. Defendant does not identify when in the body camera footage Officer Caban is allegedly reviewing the contents of Defendant's cell phone. Second, nothing in Caban's alleged search of the phone was used to obtain the search warrant for either 3004 S. Electric or his cell phone. The Government submits that Defendant's prior counsel reviewed the body camera footage and indicated that nothing from the Detroit Police's initial search of 3004 S. Electric was included in the search warrant. ECF 133 PgID 509. Finally, Defendant has not identified information

from the initial search of the home that was used to obtain the warrants. The Court has previously found that the initial entry into 3004 S. Electric did not invalidate the warrants. ECF 23, PgID 98.

Defendant's third argument—that he was interrogated upon law enforcement's arrival to 3004 S. Electric without a *Miranda* warning—is unconvincing because the interrogation was not custodial. *Miranda* protections are limited to custodial interrogations. "[F]or *Miranda* to apply, the suspect must either be actually taken into custody or the restraint on his freedom must rise to the level associated with a formal arrest." *United States v. Salvo*, 133 F.3d 943, 948 (6th Cir. 1998) (citation omitted). "[Q]uestioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way" constitutes a custodial interrogation. *Oregon v. Mathiason*, 429 U.S. 492, 494 (1977) (citation omitted).

To meet *Miranda*'s custody requirement, "a reasonable man in the suspect's position" must have understood his situation to be custodial. *Berkemer v. McCarty*, 468 U.S. 420, 442 (1984). Whether the situation was custodial is an objective inquiry. *Yarborough v. Alvarado*, 541 U.S. 652, 667 (2004); *Stansbury v. California*, 511 U.S. 318, 323 (1994). In conducting the objective inquiry, courts consider several factors, including "the location of the interview; the length and manner of questioning; whether the individual possessed unrestrained freedom of movement during the interview; and whether the individual was told [he] need not answer the questions." *United States v. Panak*, 552 F.3d 462, 466 (6th Cir. 2009) (citation omitted).

Defendant was not in custody when Detroit police officers arrived at 3004 S. Electric in response to AV1's call on November 17, 2016. They did not restrict Defendant's freedom when they spoke with him and they did not place Defendant under arrest until several hours later. The Detroit Police officers therefore did not need to provide a *Miranda* warning before they conversed with Defendant at 3004 S. Electric.

Defendant's fourth argument is without merit. Defendant appears to argue that a law enforcement officers' mention of "five girls" during an FBI interrogation is inconsistent with the affidavit supporting the search warrant for 3004 S. Electric, which relays AV1's statement that four women were forced to work as prostitutes. See ECF 19-2, PgID 78. The discrepancy, if any, does not warrant suppression. Defendant is indicted with two counts of sex trafficking by force, fraud, or coercion against AV1 and AV2. ECF 10.

The Court will deny Defendant's motion to suppress.

WHEREFORE, it is hereby **ORDERED** that Defendant's motion to suppress [97] is **DENIED**.

SO ORDERED.

Dated: March 13, 2019

s/ Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on March 13, 2019, by electronic and/or ordinary mail.

s/ David P. Parker
Case Manager